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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,284	07/30/2003	Jayaprakash R.	GEMS 129676XT(CIP)(3745)	9708
7590	04/11/2005		EXAMINER	
Tracey R. Loughlin DOUGHERTY, CLEMENTS & HOFER Suite 300 1901 Roxborough Road Charlotte, NC 28211			FOOTLAND, LENARD A	
			ART UNIT	PAPER NUMBER
			3682	
DATE MAILED: 04/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/630,284	R. ET AL.	
	Examiner	Art Unit	
	Lenard A. Footland	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-30-03</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of the combination invention is acknowledged. Claim(s) 1-9 are withdrawn from further consideration by the examiner.

Claims 10-15 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 10-15 of prior U.S. Patent No. 10445590. This is a double patenting rejection.

Alternatively, claims 10-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-15 of copending Application No. 10445590. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only with respect to matters of wording or verbal surplusage.


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 3682

Any inquiry of a general nature or relating to the status of this application or proceeding should be first directed to the receptionist whose telephone number is (703) 308-2168. Should that communication be unsuccessful, please obtain the name of the receptionist before contacting the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenard A. Footland, whose telephone number is (703) 308-2683.

Fax: 703-872-9326

A handwritten signature in cursive script, reading "Lenard A. Footland".

Lenard A. Footland

Primary Examiner

Technology Center 3600

Art Unit 3682

laf

April 3, 2005